## REMARKS/ARGUMENTS

### 1. Claims

Claims 18-19, 21-24, 26-29 and 31-34 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

### 2. Claim Rejections – 35 U.S.C. § 103 (a)

Claims 18-19, 21-24, 26-29, and 31-34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jennings et al, (US 6,430,174 hereinafter "Jennings") in view of Sylvain (US 2004/0120498 hereinafter "Sylvain"). Applicant respectfully traverses the rejection. The Examiner stated:

> Regarding claims 18, 21, 23, 26 and 28-29, Jennings teaches a method for automatically discovering a shared multimedia service capability of two user equipments when initiating a voice call between two parties, one of the user's equipment, which belongs to a calling party being capable of running simultaneously both a circuit switched voice call in a CS network, and a packet switched IP session supported by a PS network, and at least one second user equipment, belonging to a called party, which multimedia capability may be unknown to the calling party and for discovering matching multimedia capability of the two user equipments when initiating a voice call over the circuit switched network to the other user equipment (Abstract; Fig. 1, 2a, 2b; col. 3, lines 3-29), the method comprising the steps of:
>
> receiving from means in the CS network simultaneously a capability request for the two user equipments to the PS network supporting the SMM service (col. 5, lines 25-35);
>
> analyzing the capability request by means in the PS network; and responding simultaneously to the user equipments information regarding matching multimedia capability, if at least one matching service is found (col. 6, lines 27-32).
>
> Jennings does not disclose that the receiving, analyzing and responding steps are performed by a SIP Application Server for Shared Multimedia Services and that a response is sent to both user equipments as a SIP message. Sylvain discloses that the receiving, analyzing and responding steps are performed by a SIP Application Server for Shared Multimedia Services (Fig. 1, element 26; Para 006; 0023-026; 0029-0032) and that a response is sent to both user equipments as a SIP message (Para 0023).

> Therefore, it would have been obvious to a person or ordinary skill in the art at the time of the invention was made to modify Jennings with teaching of Sylvain, to use SIP to provide signaling and session management for voice and multimedia connections over packet-based networks.

Regarding the Section 103(a) rejection, the Examiner further stated:

> ...the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in anyone or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

As asserted in the last Response, and as restated herein, the combined teachings of Jennings and Sylvain would not have suggested to one of ordinary skill in the art the present invention. The Examiner asserts:

> receiving from means in the CS network simultaneously a capability request for the two user equipments to the PS network supporting the SMM service (col. 5, lines 25-35);

Such element necessarily requires two communication systems (a CS network and a PS network) so as to automatically discover whether a packet data channel can be established between a caller and a called party by the two communication systems. Contrast that with column 5, lines 25-35 of Jennings which discloses:

> Should the caller that is calling from the end point device 108 desire to converse with a called party served by one of the other end point devices 114-122, the voice subsystem 102 attempts to deliver the call. If delivered, the conversation is serviced until it is complete. Simultaneously, the caller may execute functions provided by the communication system 100 via the multimedia unit 104. Further, when the conversation is completed, the caller may further interface with the communication system 100 to perform other functions.

As more fully developed below, Jennings only describes a single communication system capable of setting up a data channel to a user on the same user voice device, or on a different data device in parallel with the voice device, for the purpose of providing some additional information to the user regarding the voice call, *and not for transferring media in parallel to the voice call, as in the present invention.* Sylvain only describes how a telephony device could be associated with a multimedia client, enabling a voice call to be routed through the packet network via the multimedia client.

Jennings does not disclose or suggest a method/apparatus for two communication systems (a CS network and a PS network) to automatically discover whether a packet data channel can be established between a caller and a called party by the two communication systems for transfer of real time media, such as video, or non-real time media, such as images, in parallel with the voice call. This is clear from Jennings, col. 4, line 66 to col. 5, line 24 (emphasis added) which discloses a single link:

> Further, upon receipt of the call from the end point device 108, the communication system 100 may determine whether the end point device 108 is multimedia enabled and respond with a multimedia interface via the communication link to the end point device. Such operation would typically be performed when the communication system 100 does not deliver the call to a desired destination device or when the caller dials a number designated for multimedia interface communications. Should the end point device 108 not be multimedia enabled, the communication system 100 seeks an alternate destination associated with the end point device 108 to deliver the multimedia interface. As illustrated, computer 110 is associated with end point device 108. In an operation wherein the end point device 108 is not multimedia enabled, the communication system 100 determines such and provides the multimedia interface to the computer 110 *via the communication link 112.*
>
> As will be further described herein, *the communication link 112 may include simply a PSTN connection, simply a wired network connection, simply a wireless network connection or any combination of these. For example, should the end point device 110 be a multimedia enabled Voice Over Internet Protocol (VOIP) phone serviced by a computer, the communication link 112 comprises simply an Internet connection. In another example, where the end point device 108 is a JAVA enabled phone, the communication link 112 comprises simply the PSTN.*

Nothing contained in Jennings discloses or suggests a method/apparatus for two communication systems (a CS network and a PS network) to automatically discover whether a packet data channel can be established between a caller and a called party by the two communication systems for transfer of real time media, such as video, or non-real time media, such as images, in parallel with the voice call.

Sylvain fails to cure the deficiencies of Jennings. Sylvain only discloses how a telephony device can be associated with a multimedia client, enabling a voice call to be routed through the packet network via the multimedia client. The Examiner asserts that the element of:

> receiving from means in the CS network simultaneously a capability request for the two user equipments to the PS network supporting the SMM service (col. 5, lines 25-35);

Column 5, lines 25-35 discloses:

Hence, Sylvain does not disclose or suggest a method/apparatus for two communication systems (a CS network and a PS network) to automatically discover whether a packet data channel can be established between a caller and a called party by the two communication systems for transfer of real time media, such as video, or non-real time media, such as images, in parallel with the voice call.

Claims 19 and 21 depend from claim 18 and recite further limitations in combination with the novel elements of claim 18. Claims 24 and 26 depend from claim 23 and recite further limitations in combination with the novel elements of claim 23. Claim 29 depends from claim 28 and recites further limitations in combination with the novel elements of claim 28. Therefore, the allowance of claims 18-19, 21-24, 26-29, and 31-34 is respectfully requested.

## CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

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